

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-13 are pending. Claims 1, 3-5, and 7 have been amended to conform the claim language more closely to the specification and better present the claimed subject matter. Claim 1 has been amended to incorporate subject matter similar to claim 2. Claims 2 and 8 have been cancelled without prejudice or disclaimer. New claims 9-13 have been added to secure an appropriate scope of protection to which Applicants are believed entitled. Support for the claim amendments is believed found in at least page 2, lines 7-24, page 3, lines 11-24, and page 13, line 17 through page 14, line 22 of the Instant Specification.

Amended claims 1, 4, 5, and 7 satisfy 35 USC 112, first paragraph

The rejection of claims 1, 4, 5, and 7 under 35 USC 112, first paragraph is believed overcome in view of the foregoing amendments. Support under §112, first paragraph is found for “publishing gateway,” “communication state management unit,” and “instant messaging interface” throughout the entirety of the specification and the drawings, see e.g., Title, page 4, lines 4-10, and page 7, lines 26-29. Withdrawal of the rejection is in order.

Amended claims 1-8 are patentable over Low, et al. (U.S. Published Patent Application 2003/0018726)

The rejection of claims 1-8 under 35 USC 102(b) as being anticipated by Low is hereby traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Amended claim 1 is patentable over Low because the reference fails to disclose or suggest every element of

claim 1.

Low et al. appear to disclose an instant messaging (IM) gateway 2 including a server 16 which executes an IM gateway process that records the state or presence of IM users using any of the known IM protocols, e.g., see paragraph [0028] of Low “records the state or presence of IM users using any of the known IM protocols.” Gateway 2 acts as an IM server between “non-native” IM clients, who use different IM protocols, and allows maintaining information of the presence of IM users with different IM clients, see Low at paragraph [0029], i.e., to communicate with others using different IM protocols Low at paragraph [0030]. An IM system for mobile (wireless devices) users is provided in gateway 2, as further described in Low at paragraph [0030], and provides access to instant messaging services to users without requiring an IM client to be installed on the user’s computing device.

Gateway 2 appears to effectively transforms a current communication state (connected or disconnected) of a mobile terminal 32 detected in an equipment 31 of the respective mobile network 30 into an instant messaging communication state (IM state information indicating whether the device 32 is available for receiving IM messages) within gateway 2, see Low at paragraph [0033].

However, in contrast to the subject matter of amended claim 1, gateway 2 does not transfer the instant messaging communication state from a publishing gateway to an instant messaging server connected to a packet network (internet 14). Claim 1 is thus not anticipated by Low and withdrawal of the rejection is in order.

Low et al. appear to disclose that the gateway 2 maintains state tables 1 in a database 18 which includes entries for each IM user connected to an IM network through the gateway 2, see Low at paragraph [0039]. For a mobile device 32, the network equipment 31 sends a message to the gateway 2 indicating that the device 32 is available to receive IM messages. In response, the gateway 2 stores state information for the account in the state table. If the mobile device 32 is switched off at any time, this is

detected by the network equipment 31, which sends a corresponding message to the gateway 2 (the IM server), which updates its state table to indicate that IM messages cannot be sent to the device 32.

These two communication states (state information) corresponds to a connection of the device 32 to the mobile network 30 and a disconnection of the device 32 from the mobile network 30 indicated by the network equipment 31, see the description in Low at paragraph [0033].

Therefore those two communication states are similar to detected communication states ED according to the Applicant's method and are not voluntary communication states (EV in the Applicant's method) which reflects the state of a terminal decided on by the user of the terminal vis-à-vis other means, such as "do not disturb," "temporarily absent," or "away" (page 6, lines 29-32) and which corresponds to apparent communication states (ED in the Applicant's method) (page 7, lines 2-3). For example, a third party user who calls a terminal T whose user has decided he does not wish to be disturbed for a predetermined time period is made aware of the "unavailable" apparent communication state, which corresponds to the "do not disturb during predetermined time period" voluntary communication state decided on by the user of the terminal T, although the terminal T may be used for outgoing calls during the predetermined time period (page 7, lines 10-18). The "unavailable" apparent communication state is seen by the third party user as a disconnected state of the terminal T, although the terminal using outgoing calls is really connected to the access network RA. In Low, when the mobile device 32 is connected to network 30, the IM message sent to the other IM users is always a connection message and not a disconnection message: the "connection state" of the syd's mobile device 32 stored in the gateway 2 indicates that user syd's device 32 is switched on to the user of the computer 10 wishing to send an instant message to the user "syd" and does not indicate that user syd's device 32 is switched off, see the description in Low at paragraph [0046].

Thus, the user of the mobile device 32 cannot select a communication state of the device that is defined independently of the detected state to make it correspond to an apparent communication state, e.g., imposed by the user, in relation to third parties seeking to communicate with the user's terminal, as set forth in the description in the instant specification at page 2, lines 17-24.

The PTO appears to have intermixed the instant messaging process applied to a mobile device 32 without an IM client (syd/GSM and miro/GSM in state table 1 of Low) and the instant messaging process (Low at paragraphs [0035]-[0036], and partly [0039]) applied to a computer 10 with an IM client and connectable to a native IM server 20-24. The IM commands which are redirected by the switch 6 in the gateway 2 to an IM server, are sent by a computer 10 with an IM client. Particularly paragraph [0042] is not applicable to the mobile device 32 per the requirement that the "user of the device 32 logs into the WAP gateway 2" in order to enter an interactive chat session (see Low at paragraph [0033]), i.e., the mobile device 32 IM state appears to be indicated as either connected or disconnected and not corresponding to a voluntary communication state as claimed in the present subject matter.

Consequently, Applicant cannot agree with the allegations in the Office Action that Low discloses the requirements of amended claim 1. Particularly, Low does not appear to disclose a voluntary communication state, an apparent communication state corresponding to (associated with) the voluntary communication state, and modifying the current communication state to the apparent communication state if the apparent communication state differs from the current communication state as claimed in amended claim 1.

For at least each of the foregoing reasons, claim 1 is believed patentable over Low and withdrawal of the rejection is in order.

Claims 3-6, 9, and 10 are patentable over Low for at least the reasons advanced

above with respect to claim 1 from which they depend.

Claims 7 and 13 are believed patentable over Low for at least reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is believed in order. Claims 11 and 12 depend from claim 7, include further features, and are patentable over Low for at least the reasons advanced above with respect to claim 7.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

/Randy A. Noranbrock/

Randy A. Noranbrock
Registration No. 42,940

for

Allan M. Lowe
Registration No. 19,641

1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
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AML/cjf